

1                                    **ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS**

2        In the Matter of the Mortgage Banker License of:

No. 07F-BD025-BNK

3        **STRATEGIC CAPITAL MORTGAGE,**  
4        **INC. (FN) AND STEVEN P. GROULX, C.E.O.**  
5        2800 North 44<sup>th</sup> Street, 9<sup>th</sup> Floor  
6        Phoenix, AZ 85008

**CONSENT ORDER**

Petitioners.

7                    On September 26, 2006, the Arizona Department of Financial Institutions ("Department")  
8        issued a Notice of Hearing, alleging that Petitioners had violated Arizona law. Wishing to resolve  
9        this matter in lieu of an administrative hearing, Petitioners consent to the following Findings of Fact  
10        and Conclusions of Law, and consent to the entry of the following Order.

11                                    **FINDINGS OF FACT**

12            1. Petitioner Strategic Capital Mortgage, Inc. (FN) (hereinafter "Strategic") is a Michigan  
13        corporation authorized to transact business in Arizona as a mortgage banker, license number  
14        BK 0907933, within the meaning of A.R.S. §§ 6-941, *et seq.* The nature of Strategic's business is  
15        that of making, negotiating, or offering to make or negotiate a mortgage banking loan or a mortgage  
16        loan secured by Arizona real property within the meaning of A.R.S. § 6-941(5).

17            2. Petitioner Steven P. Groulx ("Mr. Groulx") is the C.E.O. of Strategic and is authorized to  
18        transact business in Arizona as mortgage banker within the meaning of A.R.S. § 6-941(5), as  
19        outlined within A.R.S. § 6-943(F).

20            3. Strategic and Mr. Groulx are not exempt from licensure as mortgage bankers within the  
21        meaning of A.R.S. §§ 6-942 and 6-941(5).

22            4. An April 17, 2006 examination of Strategic, conducted by the Department, revealed that  
23        Strategic and Mr. Groulx:

- 24                    a. Failed to use their license number on their website when soliciting and/or transacting  
25                    business;

26        ...

1 b. Failed to conduct the minimum elements of reasonable employee investigations  
2 before hiring employees, specifically:

- 3 i. Failed to collect and review all of the documents authorized by the  
4 Immigration and Control Act of 1986 for four (4) employees;
- 5 ii. Failed to obtain a completed and dated "I9" (Employment Eligibility  
6 Verification Form) for twenty five (25) employees;
- 7 iii. Failed to consult with the applicant's most recent or next most recent  
8 employer or failed to date said inquiry for twenty seven (27)  
9 employees;
- 10 iv. Failed to inquire regarding an applicant's qualifications and  
11 competence or failed to date said inquiry for the position for twenty  
12 seven (27) employees;
- 13 v. Failed to obtain a signed statement attesting to all of an applicant's  
14 felony convictions, including detailed information regarding each  
15 conviction before hiring six (6) employees;
- 16 vi. Failed to obtain a credit report for nineteen (19) employees;
- 17 vii. Failed to obtain a completed and signed employment application  
18 before hiring one (1) employee;
- 19 viii. Failed to conduct further investigation of sixteen (16) employees with  
20 derogatory credit reports; and
- 21 ix. Petitioners failed to correct these violations from their last two  
22 examinations;

23 c. Certain bank accounts and check registers revealed negative daily balances,  
24 indicating insolvency, which is grounds for license suspension or revocation,  
25 specifically:

26 ...

- 1 i. Petitioners failed to maintain positive balances at all times for all bank  
2 accounts and check registers; and  
3 ii. Petitioners failed to correct this violation from its last exam;
- 4 d. Failed to maintain originals or copies of loan transactions, specifically:  
5 i. Petitioners failed to maintain three (3) assignment of deeds of trust  
6 involving three (3) separate transactions and failed to maintain all  
7 closing documents in one (1) transaction;
- 8 e. Allowed borrowers to sign regulated documents containing blank spaces involving  
9 twenty two (22) borrowers;
- 10 f. Failed to comply with the disclosure requirements of Title I of the Consumer Credit  
11 Protection Act (15 U.S.C. §§ 1601 through 1666j), the Real Estate Settlement  
12 Procedures Act (12 U.S.C. §§ 2601 through 2617), and the regulations promulgated  
13 under these acts, specifically:  
14 i. Servicing transfer disclosures were defective or not issued to twenty  
15 three (23) borrowers;
- 16 g. Failed to keep and maintain complete and correct records, specifically:  
17 i. Petitioners maintain all records, other than copies of mortgage loan  
18 files, outside of Arizona without having obtained the Superintendent's  
19 prior approval;
- 20 h. Contracted with or paid compensation to unlicensed, independent contractors,  
21 specifically:  
22 i. Petitioners paid \$2,115.59 to loan officer Suzi Killion, who is a 1099  
23 unlicensed independent contractor;  
24 ii. Petitioners paid \$610,091.71 to VIP Mortgage Plus, L.L.C., which is an  
25 unlicensed independent contractor owned by Dan Treantos and Brian  
26 Odle; and

1                                   iii. Petitioners paid \$142,075.14 to E M Lynch Marketing & Assoc., which  
2                                   is an unlicensed independent contractor providing, among other things,  
3                                   telemarketing services to Petitioners.

4           5. Based upon the above findings, the Department issued and served upon Strategic and Mr.  
5 Groulx an Order to Cease and Desist; Notice of Opportunity For Hearing; Consent to Entry of Order  
6 ("Cease and Desist Order") on August 9, 2006.

7           6. On September 5, 2006, Petitioners filed a Request For Hearing to appeal the Cease and  
8 Desist Order.

9           7. Petitioners have voluntarily agreed to take corrective action and have attempted to comply  
10 with the Department's requests. However, such finding does not waive any provision of this  
11 Consent Order.

#### 12                                   CONCLUSIONS OF LAW

13           1. Pursuant to A.R.S. §§ 6-941, *et seq.*, the Superintendent has the authority and duty to  
14 regulate all persons engaged in the mortgage banker business and with the enforcement of statutes,  
15 rules, and regulations relating to mortgage bankers.

16           2. By the conduct set forth in the Findings of Fact, Strategic and Mr. Groulx violated the  
17 following:

- 18           a. A.R.S. § 6-943(N) by failing to use their license number on their website when  
19           soliciting and/or transacting business;
- 20           b. A.R.S. § 6-943(O) and A.A.C. R20-4-102 by failing to conduct the minimum  
21           elements of reasonable employee investigations before hiring employees;
- 22           c. A.R.S. § 6-945(A) by failing to maintain positive balances at all times for all bank  
23           accounts and check registers;
- 24           d. A.R.S. § 6-946(A) and A.A.C. R20-4-1806(B)(6) by failing to maintain originals or  
25           copies of loan transactions;

26   ...

- e. A.R.S. § 6-947(A) and A.A.C. R20-4-1808 by allowing borrowers to sign regulated documents containing blank spaces;
- f. A.R.S. § 6-946(E) and A.A.C. R20-4-1806(B)(6)(e) by failing to comply with the disclosure requirements of Title I of the Consumer Credit Protection Act (15 U.S.C. §§ 1601 through 1666j), the Real Estate Settlement Procedures Act (12 U.S.C. §§ 2601 through 2617), and the regulations promulgated under these acts;
- g. A.R.S. § 6-946(A) by failing to keep and maintain complete and correct records; and
- h. A.R.S. § 6-947(B) and A.A.C. R20-4-102 by contracting with or paying compensation to unlicensed, independent contractors.

3. The violations, set forth above, constitute grounds for: (1) the issuance of an order pursuant to A.R.S. § 6-137 directing Petitioners to cease and desist from the violative conduct and to take the appropriate affirmative actions, within a reasonable period of time prescribed by the Superintendent, to correct the conditions resulting from the unlawful acts, practices, and transactions; (2) the imposition of a civil monetary penalty pursuant to A.R.S. § 6-132; (3) the suspension or revocation of Petitioners' license pursuant to A.R.S. § 6-945; and (4) an order or any other remedy necessary or proper for the enforcement of statutes and rules regulating mortgage bankers pursuant to A.R.S. §§ 6-123 and 6-131.

#### **ORDER**

1. Strategic and Mr. Groulx shall immediately stop the violations set forth in the Findings of Fact and Conclusions of Law. Strategic and Mr. Groulx:

- a. Shall use their license number on their website when soliciting and/or transacting business;
- b. Shall conduct the minimum elements of reasonable employee investigations before hiring employees;
- c. Shall maintain positive balances at all times for all bank accounts and check registers;
- d. Shall maintain originals or copies of loan transactions;

- 1 e. Shall not allow borrowers to sign regulated documents containing blank spaces;  
2 f. Shall comply with the disclosure requirements of Title I of the Consumer Credit  
3 Protection Act (15 U.S.C. §§ 1601 through 1666j), the Real Estate Settlement  
4 Procedures Act (12 U.S.C. §§ 2601 through 2617), and the regulations promulgated  
5 under these acts;  
6 g. Shall keep and maintain complete and correct records; and  
7 h. Shall not contract with or pay compensation to unlicensed, independent contractors.

8 2. Strategic and Mr. Groulx shall immediately pay to the Department a civil money penalty  
9 in the amount of **fifteen thousand dollars (\$15,000.00)**. Strategic and Mr. Groulx are jointly and  
10 severally liable for payment of the civil money penalty

11 3. The provisions of this Order shall be binding upon Strategic and Mr. Groulx, their  
12 employees, agents, and other persons participating in the conduct of the affairs of Strategic.

13 4. This Order shall become effective upon service, and shall remain effective and  
14 enforceable until such time as, and except to the extent that, it shall be stayed, modified, terminated,  
15 or set aside.

16 SO ORDERED this 14th day of November, 2006.

17  
18 By: Felecia Rotellini  
19 Felecia A. Rotellini  
20 Superintendent of Financial Institutions

21 **CONSENT TO ENTRY OF ORDER**

22 1. Petitioners acknowledge that they have been served with a copy of the foregoing  
23 Findings of Fact, Conclusions of Law, and Order in the above-referenced matter, have read the  
24 same, are aware of their right to an administrative hearing in this matter, and have waived the same.

25 2. Petitioners admit the jurisdiction of the Superintendent and consent to the entry of the  
26 foregoing Findings of Fact, Conclusions of Law, and Order.

1 3. Petitioners state that no promise of any kind or nature has been made to induce them to  
2 consent to the entry of this Order, and that they have done so voluntarily.

3 4. Petitioners agree to cease from engaging in the violative conduct set forth above in the  
4 Findings of Fact and Conclusions of Law.

5 5. Petitioners acknowledge that the acceptance of this Agreement by the Superintendent is  
6 solely to settle this matter and does not preclude this Department, any other agency or officer of this  
7 state or subdivision thereof from instituting other proceedings as may be appropriate now or in the  
8 future.

9 6. Steven P. Groulx, signing on behalf of Strategic Capital Mortgage, Inc. (FN) and himself,  
10 represents that he is the CEO and that as such, has been authorized by Strategic Capital Mortgage,  
11 Inc. (FN) to consent to the entry of this Order on its behalf.

12 7. Petitioners waive all rights to seek judicial review or otherwise to challenge or contest the  
13 validity of this Order.

14 DATED this 25<sup>th</sup> day of OCTOBER, 2006.

15  
16 By: Steven P. Groulx  
17 Steven P. Groulx, CEO  
18 Strategic Capital Mortgage, Inc. (FN)  
19  
20

21 ORIGINAL of the foregoing filed this 27<sup>th</sup> AR  
22 day of NOVEMBER, 2006, in the office of:

23 Felecia A. Rotellini  
24 Superintendent of Financial Institutions  
25 Arizona Department of Financial Institutions  
26 ATTN: June Beckwith  
2910 N. 44th Street, Suite 310  
Phoenix, AZ 85018

1 COPY mailed same date to:

2 Diane Mihalsky, Administrative Law Judge  
3 Office of the Administrative Hearings  
4 1400 West Washington, Suite 101  
Phoenix, AZ 85007

5 Alyse C. Meislik, Assistant Attorney General  
6 Office of the Attorney General  
1275 West Washington  
Phoenix, AZ 85007


7 Robert D. Charlton, Assistant Superintendent  
8 Judi Moss, Senior Examiner  
9 Arizona Department of Financial Institutions  
2910 N. 44th Street, Suite 310  
Phoenix, AZ 85018

10 AND COPY MAILED SAME DATE by  
11 Certified Mail, Return Receipt Requested, to:

12 Steven P. Groulx, C.E.O.  
13 Strategic Capital Mortgage, Inc. (FN)  
700 Tower Drive, Suite 700  
Troy, MI 48098

14 Steven P. Groulx, C.E.O.  
15 Strategic Capital Mortgage, Inc. (FN)  
2800 N. 44<sup>th</sup> Street, 9<sup>th</sup> Floor  
16 Phoenix, AZ 85008

17 Robert R. Florka, General Counsel  
18 Strategic Capital Mortgage, Inc. (FN)  
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